

Attorney Docket No.: C6656(C)  
Serial No.: 10/748,038  
Filed: December 30, 2003  
Confirmation No.: 6775

### **REMARKS**

Claims 1-2, 5 and 8-13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Paulovich et al. (US Patent 6,523,724 B2) in view of Kurita et al. (US Patent 6,277,478 B1). Applicant traverses this rejection.

Paulovich et al. discloses a venting closure that includes a neck 166. A liquid impermeable fabric layer is adhered across the mouth of the neck. Over the fabric layer is a threadable vent cap 58. An aperture 410 is off-center fashioned through a top wall of the vent cap.

The Paulovich et al. venting closure allows air to enter a container to equalize pressure as liquid is dispensed. The system functions by utilizing a fabric layer 420 (e.g. Gore-Tex fabric layer) as a membrane which permits passage of air but not liquids. This passage communicates to the atmosphere through vent hole 410. See Figure 15 and the description at column 7, lines 3-10. Accordingly, the key functional element is a membrane that is air permeable but liquid impermeable.

The Examiner views the Paulovich et al. structure 58 as equivalent to a patch. Yet nothing in Paulovich et al. teaches or suggests that the threadably attached vent cap 58 could become an adherent patch. Kurita et al. does not spark a skilled technician's creativity in transforming an apertured vent cap into a patch. The secondary reference is interested in "completely hermetically and hygienically sealing a mouth of a container". See column 2, lines 22-25. Unlike the fabric layer 420, the seal cover (patch) 10 of Kurita et al. does not permit air to flow therethrough. Indeed, the seal cover 10 functions to hermetically exclude air transport. Those skilled in the art in

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seeking to improve a venting closure would find no motivation in the structures of Kurita et al. for replacement into Paulovich et al.

Claims 7 and 14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Paulovich et al. (U.S. Patent 6,523,724 B1) in view of Kurita et al. (U.S. Patent 6,277,478 B1) and further in view of Ostrowsky (U.S. Patent 3,993,208). Applicant traverses this rejection.

Dependent claims 7 and 14 are subject to independent claims 1 and 9. These independent claims require an off-center aperture bearing patch adhered to a venting opening. A vent cap with releasable backing layer is then fastened over the patch.

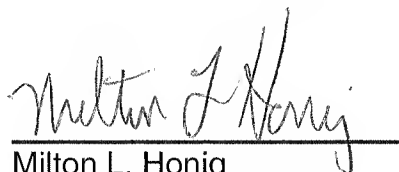
Applicant noted above that Paulovich et al. controls pressure equalization through a fabric layer that permits air but not liquid to pass therethrough. Applicant changes the nature of fabric layer 420 through addition of an off-center aperture. This now apertured layer or patch unlike the Paulovich et al. layer 420 allows transfer of both air and liquid (via the aperture).

In applicant's invention, liquid is prevented from outflow by plugging the aperture with a vent cap/releasable backing layer. Kurita et al. provides a sealing system that hermetically prevents any flow of air. The skilled chemist would have no motivation (absent hindsight understanding of the present invention) for introducing the hermetic seal cover 10 into the Paulovich et al. system. Based on these considerations, those skilled in the art would not obviously arrive at the invention described in claims 7 and 14.

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Based on the comments herein, the Examiner is requested to reconsider the rejection and now allow the claims.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Milton L. Honig", is written over a horizontal line.

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